

REMARKS

Summary Of The Office Action & Formalities

Status of Claims

Claims 1-12 and 14-21 are all the claims pending in the application. Claims 7-12 are withdrawn from further consideration by the Examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. By this Amendment, Applicant is amending claims 1 and 21, canceling claim 14, and adding new claims 22 and 23. No new matter is added.

Additional Fees

Submitted herewith is a Petition for Extension of Time with fee and an Excess Claim Fee Payment Letter with fee.

Art Rejections

Claims 1-6 and 14-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rocci (US 5,676,129) in view of Claassen (US 4,194,401).

Applicant maintains that neither Rocci nor Claassen renders the claims unpatentable, regardless of whether these two patents are considered individually or together, for at least the reasons of record. Further, Applicant submits that, because Claassen is directed to a transducer for measuring the internal pressure in a pipe and, in particular, injection pipes in diesel engines (*See* Claassen, 1:6-12), there is no rationale for why one skilled in the art of metered dose inhalers (to which Rocci is directed) would even have considered Claassen in the first place. It is not evident from Claassen or Rocci that the transducer mechanism of Claassen, which is based

on sensing deformation of a pipe and intended for injection pipes of diesel engines, could be adapted for use in MDIs.

Furthermore, Applicant has amended claims 1 and 21 to include the feature of claim 14 and to specify that one of the sleeve's portion co-operates with the dispenser member while the other sleeve's portion co-operates with the dispenser head.

From the Examiner's grounds of rejection, it appears that the Examiner considers channel body 10 of Rocci as a sleeve. Channel body 10 connects on one side to the valve stem. The Examiner appears to also take the position that channel body 10 is part of the dispenser body 5 (head), and thus considered as being connected on the other side to the dispenser head.

Applicant disagrees with this characterization, as the claimed sleeve is not part of either the dispenser head or the dispenser member.

Further, the claims now require that the sleeve is made in two portions, with one portion co-operating with the dispenser member (which the Examiner would characterize as the dispensing nozzle 4 of valve 3 in Rocci) and the other portion co-operating with the dispenser head (which the Examiner would characterize as channel body 10 in Rocci). This feature is not taught or rendered obvious by either applied patent. In particular, the channel body 10 in Rocci is in one single piece and not in two portions. As already explained, the two-portion form makes assembly easier and guarantees leaktightness (*see, e.g.*, Applicant's specification at p. 5, l. 30-31).

Figure 3 of the present Application, which shows an embodiment in the form of an inhaler, clearly shows how the recited two-portion form of the sleeve, also seen in Figure 2, significantly differs from Rocci.

In Claassen, the sleeve is made of two halves assembled together around the tube (see Figure 2). Thus, this sleeve only co-operates with the tube. If this sleeve were to be used in Rocci, the sleeve would be assembled around the channel body 10. However, there would be no reason to provide a co-operation between the sleeve and the dispenser member 4. Moreover, even if there would be such a co-operation, both portions of the Claassen sleeve would have such co-operation, the two portions (halves) being symmetrically disposed around the tube/channel body.

Thus, even if one were to modify Rocci with Claassen's sleeve, the modification would not result in the claimed structure of a sleeve in two portions, one co-operating with the dispenser member 4 and the other with the dispenser head 10.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.114(c)
U.S. Application No.: 10/583,256

Attorney Docket No.: Q95439

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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